

OCT 17 2006

October 17, 2006

Page 1 of 21

Docket No.: AMAZON.053A

Please Direct All Correspondence to Customer Number 20995

APPEAL BRIEF

Applicant : Bezos et al.
 App. No : 09/715,929
 Filed : November 17, 2000
 For : METHODS AND SYSTEMS FOR
 PROCESSING DISTRIBUTED
 FEEDBACK
 Examiner : Susanna M. Meinecke Diaz
 Art Unit : 3623

CERTIFICATE OF FAX TRANSMISSION
PTO CENTRALIZED FAX

I hereby certify that this correspondence and all
 marked attachments, are being transmitted via
 facsimile to the USPTO centralized Fax No.
 (571) 273-8300 on the date shown below:

October 17, 2006

(Date)

Total number of pages including this sheet: 21



David N. Weiss, Reg. No. 41,371

Mail Stop Appeal Brief-Patents

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Sir:

Appellants, Applicants in the above-captioned patent application, appeal the rejection of Claims 1-11 and 19 set forth in the Office Action mailed on March 20, 2006 (hereinafter "the current Office Action"). Please charge any additional fees that may be required now or in the future to Deposit Account No. 11-1410.

TABLE OF CONTENTS

Real Party in Interest.....	2
Related Appeals and Interferences.....	2
Status of Claims.....	2
Status of Amendments.....	2
Summary of Claimed Subject Matter.....	2
Grounds of Rejection to be Reviewed on Appeal.....	6
Argument.....	7
Claims Appendix.....	19
Evidence Appendix.....	20
Related Proceedings Appendix.....	21

Docket No. : AMAZON.053A
Application No. : 09/715,929
Filing Date : November 17, 2000

Customer No.: 20,995

RECEIVED
CENTRAL FAX CENTER

OCT 17 2006

I. REAL PARTY IN INTEREST

The real party in interest in the present application is Amazon.com, Inc.

II. RELATED APPEALS AND INTERFERENCES

An appeal is currently pending in U.S. Appl. No. 09/715,850, filed November 17, 2000, ("the '850 application"), which is owned by the assignee of the present application. The '850 application discloses methods and systems for distributing information within a dynamically defined community.

III. STATUS OF CLAIMS

Claims 1-21 are pending in the present application. Claims 12-18, 20 and 21 have been withdrawn from consideration. Claims 1-11 and 19, which are listed in the attached claims appendix and stand rejected, are the subject of this appeal.

IV. STATUS OF AMENDMENTS

No amendments were made in response to the current Office Action.

V. SUMMARY OF CLAIMED SUBJECT MATTER

The present application includes two independent claims. Each independent claim is summarized below, with citations to corresponding portions of the specification and drawings as required by 37 C.F.R. § 41.37(c)(1)(v). These citations and the associated explanations are provided to illustrate specific examples and embodiments of the claimed subject matter, and do not limit the claims. In the following summaries, the first digit of each reference number identifies the figure in which the referenced item first appears.

Independent Claim 1 provides a mechanism for obtaining and providing evaluations of a product review via a networked commerce site (850). The method involves providing the product review to other customers, receiving votes from other customers indicating whether the product review was helpful, tallying the votes, and providing over a network an indication related

Docket No. : AMAZON.053A
Application No. : 09/715,929
Filing Date : November 17, 2000

Customer No.: 20,995

to the vote tally in association with the product review. The method further involves tallying votes for a plurality of first customer reviews to provide a total tally, assigning a designation to the first customer based on the total vote tally, and displaying the designation in association with the product review. More specifically, the method comprises:

- providing a product review authored by a first customer over a network to a plurality of other customers (see, e.g., Figs. 3B, 3C, 4; Fig. 8; page 2, lines 14-19; and page 27, lines 15-18);
- receiving votes over the network from other customers indicating whether the product review was helpful (see, e.g., 704, page 3, line 28 to page 4, line 2; and page 29, lines 1-4);
- tallying the votes received for the product review (see, e.g., 706; page 16, lines 5-30; and page 29, lines 4-5);
- providing over the network an indication related to the vote tally for the product review in association with the product review (see, e.g., Fig. 4, page 3, lines 25-28; page 15, lines 16-19; and page 27, lines 22-27);
- tallying votes received for a plurality of reviews authored by the first customer to provide a total tally, the total tally including votes received for the product review (see, e.g., 710; page 16, lines 9-10; and page 29, lines 1-19);
- assigning a designation to the first customer based on the total vote tally for the plurality of reviews authored by the first customer (see, e.g., 716; Fig. 4; page 4, lines 3-10; page 17, line 1, to page 18, line 3; and page 29, lines 1-5); and
- displaying the designation in association with the product review (see, e.g., Fig. 4; 718; page 4, lines 3-10; page 27, lines 26-29; and page 29, lines 1-19).

One example embodiment of a method of evaluating a product review as described in Claim 1 is shown in Fig. 7 and described at page 29, lines 1-19. Figure 4 illustrates an example user interface for providing a customer-authored product reviews to other customers, for receiving votes regarding the helpfulness of reviews, and for displaying a designation for the

Docket No. : AMAZON.053A
Application No. : 09/715,929
Filing Date : November 17, 2000

Customer No.: 20,995

customer in association with the product review, as described on page 27, line 15, to page 28, line 6.

With reference to Fig. 4 and as described at page 27, lines 15-18, in the illustrated example embodiment, product reviews (e.g., "Is it impossible to make films like this anymore" and "FANTASTIC FANTASY") are displayed. In the example embodiment, the product reviews are displayed in association with a review heading ("Customer Reviews of the Day"). With reference to FIG. 4 and as explained at page 27, lines 19-21, in this example embodiment customers can vote on whether a product review is helpful, by activating a "Yes" soft button, or not helpful, by activating a "No" button. In this example, the buttons are displayed in association with a prompt ("Was this review helpful to you?") and the corresponding review. The votes from customers indicating whether the product review was helpful are received (704) as explained at page 29, lines 3-4.

The product review votes are then tallied (706), as explained at page 29, lines 4-5. As explained at page 16, lines 9-27, in tallying votes, different votes (e.g., "useful" and "not useful" votes) can be assigned different values or weights. As illustrated in Fig. 4 and described at page 27, lines 21-26, a vote tally for a product review is displayed in association with the corresponding product review (e.g., "5 of 5 people found this review helpful" and "11 of 12 people found the following review helpful").

As illustrated in FIG. 7 (710) and explained at page 16, lines 19-20, and page 29, lines 7-9, votes received for a given review are tallied with votes for other reviews by the customer to provide a total tally of votes including votes received for the product review.

A designation is assigned to the customer using the total vote tally, as illustrated in Fig. 7 (712, 716) and as explained at page 17, lines 1-21 and page 29, lines 8-16. For example, using the customer's total vote tally, the customer may be assigned an appropriate designation (e.g., "Top 100 Reviewer", "Top 50 Reviewer").

Referring to Fig. 7 (718), as explained at page 29, lines 16-18, and to Fig. 4, as explained at page 27, lines 26-29, the designation ("Top 50 Reviewer") assigned to a customer is displayed in association with a corresponding product review ("FANTASTIC FANTASY").

Docket No. : AMAZON.053A
Application No. : 09/715,929
Filing Date : November 17, 2000

Customer No.: 20,995

Independent Claim 19 provides a mechanism for obtaining and providing evaluations of customer product reviews via a networked commerce site (850, Fig. 8). The method involves transmitting a product review to customers, receiving evaluations from customers indicating whether the product review was helpful, tallying evaluations for a plurality of reviews from a first customer to provide a combined tally, and transmitting information related to the evaluations and the combined tally for display in association with the product review. More specifically, the method comprises:

- transmitting the product review to a plurality of customers (see, e.g., Figs. 3B, 3C, 4; Fig. 8; page 2, lines 14-19; and page 27, lines 15-18);
- receiving from at least a portion of the plurality of customers' evaluations indicating whether the product review was useful (see, e.g., 704, page 3, line 28 to page 4, line 2; and page 29, lines 1-4);
- tallying evaluations for a plurality of reviews from at least a first customer to provide a combined tally for the evaluations (see, e.g., 710; page 16, lines 9-10; and page 29, lines 1-19); and
- transmitting information related to the evaluations and the combined tally for display in association with the product review (see, e.g., Fig. 4; 718; page 4, lines 3-10; page 27, lines 26-29; and page 29, lines 1-19).

One example embodiment of a method of evaluating a product review as described in Claim 19 is shown in Fig. 7 and described at page 29, lines 1-19. Figure 4 illustrates an example user interface which can be transmitted to a plurality of customers for displaying a product review, for receiving customer evaluations indicating whether the product review was helpful, and for displaying information related to the evaluations and a combined tally of review evaluations for display in association with the product review, as described on page 27, line 15, to page 28, line 6.

With reference to Fig. 4 and as described at page 27, lines 15-18, in the illustrated example embodiment, product reviews (e.g., "Is it impossible to make films like this anymore" and "FANTASTIC FANTASY") are displayed. In the example embodiment, the product

Docket No. : AMAZON.053A
Application No. : 09/715,929
Filing Date : November 17, 2000

Customer No.: 20,995

reviews are displayed in association with a review heading ("Customer Reviews of the Day"). Customers can provide review evaluations. With reference to FIG. 4 and as explained at page 27, lines 19-21, in this example embodiment customers can provide evaluations indicating with the product review is useful by activating a "Yes" soft button or a "No" button. The evaluations for the product review are received (704) as explained at page 29, lines 3-4.

As illustrated in FIG. 7 (710) and explained at page 16, lines 19-20, and page 29, lines 7-9, evaluations received for a given review are tallied with evaluations for other reviews by the customer to provide a combined tally.

Information related to the review evaluations and the combined tally is displayed to customers in association with the product review. For example, as illustrated in Fig. 4 and described at page 27, lines 21-26, a vote tally for a product review may be displayed in association with the corresponding review (e.g., "5 of 5 people found this review helpful" and "11 of 12 people found the following review helpful"). A designation is assigned to the customer using the total vote tally, as illustrated in Fig. 7 (712, 716), and as explained at page 17, lines 1-21 and page 29, lines 8-16. For example, using the customer's total vote tally, the customer may be assigned an appropriate designation (e.g., "Top 100 Reviewer", "Top 50 Reviewer"). Referring to Fig. 7 (718), as explained at page 29, lines 16-18, and to Fig. 4, as explained at page 27, lines 26-29, the designation ("Top 50 Reviewer") assigned to a customer is displayed in association with a corresponding product review ("FANTASTIC FANTASY"). Other types of information related to the review evaluations and the combined tally which may be displayed, include review placement (where the better the rating the better the review positioning) as explained at page 17, line 29 to page 18, line 3.

VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

The sole ground for rejection to be reviewed on appeal is the rejection of Claims 1-11 and 19 under 35 U.S.C. § 103(a) as being unpatentable over a collection of Epinions.com articles, including "Home, Netscape, Yahoo! Veterans Announce Epinions.com" (July 12, 1999),

Docket No. : AMAZON.053A
Application No. : 09/715,929
Filing Date : November 17, 2000

Customer No.: 20,995

"Epinions.com Announces the Launch of its Free Online Shopping Guide Powered by Consumer Opinions" (September 8, 1999) (herein after, "Epinions Announces"), Barrett, "What's Your Epinion?" (September 13, 1999), Tedeschi, "Consumer Products are Being Reviewed on More Web Sites, Some Featuring Comments From Anyone With an Opinion" (October, 25, 1999), Wohl, "User Review – Your Opinions Are Highly Valued on the Web" (November 8, 1999), collectively referred to as "Epinions" or the "Epinions articles", in view of a collection of eBay articles, including "eBay Launches the Most Comprehensive Trust and Safety Upgrades to the World's Largest Person-to-Person Trading Site" (January 15, 1999) (hereinafter "eBay Launches"), Lenatti, "Auction Mania" (July 1999), and eBay's Feedback Forum web site (hereinafter "eBay Forum"), archived on October 12, 1999 by web.archive.org, collectively referred to as "eBay" or the "eBay articles".

Appellants will treat the Epinions and eBay articles as prior art for purposes of this appeal, but reserve the right to later disqualify all or some of the articles as prior art.

VII. ARGUMENT

In rejecting claims under 35 U.S.C. § 103, the Examiner bears the initial burden of presenting a *prima facie* case of obviousness. See In re Rijckaert, 9 F.3d 1531, 1532, 28 USPQ2d 1955, 1956 (Fed. Cir. 1993). The Examiner may satisfy this burden by showing some objective teaching in the prior art or that knowledge generally available to one of ordinary skill in the art. In re Fine, 837 F.2d 1071, 1074, 5 USPQ2d 1596, 1598 (Fed. Cir. 1988). To establish a *prima facie* case of obviousness, three basic criteria must be met: (1) there must be some suggestion or motivation to combine the reference teachings, (2) there must be a reasonable expectation of success, and (3) the references when combined must teach or suggest all of the claim limitations. See M.P.E.P. § 2143. "According to the 'motivation-suggesting-teaching' test, a court must ask 'whether a person of ordinary skill in the art, possessed with the understandings and knowledge reflected in the prior art, and motivated by the general problem facing the inventor, would have been led to make the combination recited in the claims.'" Alza Corporation v. Mylan Laboratories (Fed. Cir. 2006, 06-1019) (citing Cross Med. Prods., Inc., v. Medtronic Sofamor Danek, Inc., 424 F.3d

Docket No. : AMAZON.053A
Application No. : 09/715,929
Filing Date : November 17, 2000

Customer No.: 20,995

1293, 1321-24 (Fed. Cir. 2005) citing In re Kahn, 441 F.3d 977, 985 (Fed. Cir. 2006)). "A suggestion, teaching or motivation to combine the relevant prior art teachings does not have to be found explicitly in the prior art, but may be implicit. ... The test for an implicit showing is what the combined teachings, knowledge of one of skill in the art, and the nature of the problem to be solved as a whole would have suggested to one of skill in the art." Ormco Corporation v. Align Technology, Inc. (Fed. Cir. 2006, 05-1426).

As set forth below, the Examiner has failed to satisfy this burden with respect to each of the rejected claims. By declining to present arguments with respect to some of the dependent claims, Appellants do not imply that the limitations added by such claims are disclosed or suggested by the Epinions and eBay articles.

Epinions and eBay (collectively "the applied references") fail to collectively or individually disclose the inventive features that are relevant to this appeal. Notably, neither of the applied references is directed to or discloses tallying votes received for a plurality of reviews to provide a total tally. Therefore, neither of the applied references is directed to or discloses to assigning a designation to the first customer based on the total vote tally for the plurality of reviews authored by the first customer. Further, neither of the applied references discloses or is directed to displaying the designation in association with the product review.

Each reference is discussed in further detail below.

Epinions

As disclosed in the Epinions articles (Epinions Announces, ¶ 2), Epinions.com is purportedly directed to a platform for consumers to share advice and recommendations with others on what to buy and what not to buy, and can rate the usefulness of others' "epinions".

As further disclosed in the Epinions articles (Epinions Announces, ¶ 4), users can find out about a reviewer giving advice on the Epinions.com web site by clicking on a reviewer's profile page, which includes a list of all written reviews with community ratings. Reviewers are paid solely according to the usefulness of their content.

Docket No. : AMAZON.053A
Application No. : 09/715,929
Filing Date : November 17, 2000

Customer No.: 20,995

The Epinions articles disclose that prospective shoppers can browse through reviews and rate them on a scale from "not useful" to "very useful." (Consumer Products are Being Reviewed on More Web Sites, ¶ 5).

In contrast to the method disclosed in the present application, the site disclosed by the Epinions articles does not appear to tally votes received for a plurality of reviews authored by a customer to provide a total tally of votes.

Because such a total tally of votes is not generated, the site disclosed by Epinions further fails to assign a designation to a customer based on the total vote tally. The site disclosed by Epinions still further fails to display a designation based on the total vote tally in association with the product review.

eBay

eBay appears directed to helping "promote safe online trading as well as protect the community from fraud." ("eBay Launches", ¶ 5).

eBay purportedly provides a Feedback Forum in which users comment on their experiences with another individual. ("eBay Launches", ¶¶ 7-10). Specifically, the Feedback Forum allows a buyer to rate a seller and a seller to rate a buyer. ("eBay Launches", ¶ 19). eBay Forum discloses that a user receives a score of +1 point for each positive comment regarding the user, 0 points for each neutral comment regarding the user, and -1 point for each negative comment regarding the user. (eBay Forum, page 1). eBay Forum further discloses that negative comments can only be left by the winning high bidder and seller in an auction. Thus, only those who have actual experience with a user with respect to a sale can leave a negative comment.

eBay Forum further states that if a comment is not about an eBay transaction, the comment is not counted. (eBay Forum, page 1). A user receives a star icon for 10 or more comments regarding transactions. Different color stars are awarded based on the user's Feedback Profile. (eBay Forum, page 1). Furthermore, if a seller receives a score of net negative four, the seller is suspended from trading ("eBay Launches", ¶ 45).

The Feedback Forum is not used to provide product reviews, and a Feedback Profile is not displayed in conjunction with a product review.

Docket No. : AMAZON.053A
Application No. : 09/715,929
Filing Date : November 17, 2000

Customer No.: 20985
RECEIVED
CENTRAL FAX CENTER
OCT 17 2006

Thus, in contrast to the claimed methods, eBay does not disclose, and is unconcerned with rating product reviews. Indeed, eBay completely fails to disclose, and appears unconcerned with product reviews altogether. Therefore, eBay completely fails to disclose, and is unconcerned with tallying votes for product reviews. Further, eBay completely fails to disclose, and is unconcerned with tallying votes for a plurality of reviews to provide a total tally.

Independent Claim 1

Claim 1 reads as follows:

1. A method of evaluating a product review displayed in connection with a networked commerce site, comprising:

providing a product review authored by a first customer over a network to a plurality of other customers;

receiving votes over the network from other customers indicating whether the product review was helpful;

tallying the votes received for the product review;

providing over the network an indication related to the vote tally for the product review in association with the product review;

tallying votes received for a plurality of reviews authored by the first customer to provide a total tally, the total tally including votes received for the product review;

assigning a designation to the first customer based on the total vote tally for the plurality of reviews authored by the first customer; and

displaying the designation in association with the product review.

In rejecting Claim 1 the Examiner admits that Epinions fails to teach tallying votes received for a plurality of reviews authored by the first customer to provide a total tally, the total tally including votes received for the product review, assigning a designation to the first customer based on the total vote tally for the plurality of reviews authored by the first customer, or displaying the designation in association with the product review.

Docket No. : AMAZON.053A
Application No. : 09/715,929
Filing Date : November 17, 2000

Customer No.: 20,995

Nonetheless, in rejecting Claim 1, the Examiner asserts that it would have been obvious to modify Epinions with eBay to teach the recited claim in order to further promote a sense of trust among Epinions.com's members by more precisely conveying feedback regarding past experiences with a particular member of the Epinions.com community.

However, eBay fails to supply the elements missing from Epinions. The rejection of Claim 1 is improper because the Examiner has not shown that the addition of the disclosure of eBay to Epinions, would have produced a method that meets all of the claim elements. The Examiner thus has not shown that all of the claim limitations are taught or suggested. See, e.g., MPEP § 2143.03 ("To establish *prima facie* obviousness of a claimed invention, all of the claim limitations must be taught or suggested by the prior art.").

Claim 1 refers to tallying votes received for a plurality of reviews authored by a first customer to provide a total tally. The Examiner does not point to any disclosure of such functionality in eBay, and does not explain how or why the addition of eBay's tallying of ratings of buyers or sellers with respect to eBay transactions to Epinions would have provided such functionality.

The Examiner similarly does not explain how or why adding the functionality of eBay to Epinions would enable Epinions to assign a designation to the first customer based on the total vote tally for the plurality of reviews authored by the first customer or display the designation in association with a product review.

Thus, even if Epinions were modified to include eBay's tallying of ratings of buyers and sellers with respect to transactions, the combination would not tally votes received for a plurality of reviews authored by a customer. Still further, even if Epinions were modified to include the star icon of eBay, which indicates the number and types of comments received regarding a purchase/sale transaction, the combination would not assign a designation to a first customer based on the total vote tally for the plurality of reviews authored by the first customer, and would not display the designation in association with a product review.

In addition, because eBay is not concerned with evaluating product reviews, and does not teach or suggest rating product reviews, there is no explicit or implicit suggestion or motivation

Docket No. : AMAZON.053A
Application No. : 09/715,929
Filing Date : November 17, 2000

Customer No.: 20,995

to combine the eBay with Epinions. Therefore, Applicants respectfully submit that a person of ordinary skill in the art motivated by the general problem of evaluating product reviews, would not have been led to make the combination recited in Claim 1. It appears that the Examiner has impermissibly used hindsight derived from the teachings in the present application, and not the teachings of the prior art, to reject Claim 1. *See In re Dembiczak*, 175 F.3d 994, 999 (Fed. Cir. 1999) (A determination of obviousness cannot simply rely on the inventor's disclosure as a "blueprint" without evidence of a suggestion, teaching or motivation in the prior art). "At its core, our anti-hindsight jurisprudence is a test that rests on the unremarkable premise that legal determinations of obviousness, as with such determinations generally, should be based on evidence rather than on mere speculation or conjecture." *Alza Corporation v. Mylan Laboratories* (Fed. Cir 2006). Also, according to M.P.E.P. Section 706.02(j), "[t]he teaching and suggestion to make the claimed combination and the reasonable expectation for success must both be found in the prior art and not based on applicant's disclosure."

Further, Appellants respectfully submit that eBay is not analogous art. "In order to rely on a reference as a basis for rejection of an applicant's invention, the reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the inventor was concerned." *In re Oetiker*, 977 F.2d 1443 (Fed. Cir. 1992) "[I]t is necessary to consider 'the reality of the circumstances' – in other words, common sense – in deciding in which fields a person of ordinary skill would reasonably be expected to look for a solution to the problem facing the inventor." *In re Oetiker*, 977 F.2d 1443, (Fed. Cir. 1992).

Claim 1 relates to a method of evaluating a product review. eBay fails to even disclose a product review much less the rating of product reviews. Therefore the general scope of eBay, which is directed to the promotion of safe online trading using ratings of buyers by sellers and the ratings of sellers by buyers with respect to eBay transactions, is outside the pertinent field of endeavor, and is not relevant to the particular problem of evaluating product reviews.

Appellants note that while the Examiner discusses the alleged pertinence of eBay with respect to Epinions, the Examiner failed to provide any rationale as to why eBay is analogous art or pertinent to the particular problem that the claimed invention is trying to solve. Appellants

Docket No. : AMAZON.053A
Application No. : 09/715,929
Filing Date : November 17, 2000

Customer No.: 20,995

respectfully submit that a person of ordinary skill at the time the invention was made would not reasonably be expected to look to eBay for a solution to the problem of evaluating a product review.

RECEIVED
CENTRAL FAX CENTER

OCT 17 2006

Dependent Claims 2-11

Claims 2-11 depend directly or indirectly from Claim 1. Thus, the rejections of Claims 2-11 are improper for the reasons set forth above for Claim 1. The rejections of these dependent claims are also improper, and should be reversed, for the additional reasons set forth below for specific claims.

Dependent Claim 3

The rejection of Claim 3 is additionally improper because the Epinions articles and eBay do not teach or suggest the elements added by Claim 3, namely that with respect to product review votes, that the helpful product review votes are weighted differently than non-helpful product review votes. While the Examiner relies on eBay to provide the missing elements, and argues that it would be obvious "to modify Epinions.com to weight helpful votes differently than non-helpful votes (as taught by eBay)," Appellants respectfully note that eBay does not even disclose "helpful votes" or "non-helpful votes", much less "helpful votes" or "non-helpful votes" regarding a product review. Instead, eBay discloses that a buyer or seller receives a score (+1, -1, 0) depending on a comment (positive, negative, neutral) regarding an eBay transaction left about the buyer or seller by another eBay user. Thus, even if Epinions was modified to include the scoring of eBay, the result would not weight helpful votes differently than non-helpful votes.

Further, Appellants respectfully traverse the Examiner motivation to modify Epinions.com as proposed by the Examiner. The Examiner has failed to explain how the scoring of transaction comments of eBay would be applied to the ratings disclosed by Epinions (Epinions.com allow customers to "rate the usefulness of others' epinions") and how such modification would more precisely convey feedback regarding past experiences with a particular member of the Epinions.com community than the disclosed usefulness rating of Epinions.

Docket No. : AMAZON.053A
Application No. : 09/715,929
Filing Date : November 17, 2000

Customer No.: 20,995

**RECEIVED
CENTRAL FAX CENTER**

OCT 17 2006

Dependent Claim 4

Additionally, the rejection of Claim 4 is improper because the Epinions articles and eBay do not teach or suggest the elements added by Claim 4, namely "displaying a ranking in association with a plurality of the first customer's reviews, wherein the ranking is based at least in part on the vote tally." While the Examiner admits that neither Epinions nor eBay discloses the foregoing elements, the Examiner asserts that eBay does display a star icon corresponding to an overall feedback rating, which is based on a tally of helpful and unhelpful votes. However, as discussed above with respect to Claim 3, eBay does not even disclose "helpful votes" or "non-helpful votes", much less "helpful votes" or "non-helpful votes" regarding a product review. Instead, eBay discloses that a buyer or seller receives a score depending on a comment left about the buyer or seller by another eBay user. Thus, even if Epinions was modified to include the scoring of eBay, the result would not display a ranking in association with a plurality of the first customer's reviews, wherein the ranking is based at least in part on the vote tally.

Further, while the Examiner further takes Official Notice that it is old and well-known in the art to rank items being compared to one another, Appellants respectfully traverse the Examiner's assertion of Official Notice with respect to the relevant art, and note that the Examiner failed to provide any supporting documentary evidence, affidavit or declaration in support of the Official Notice. Even assuming, arguendo that the Examiner's Office Notice is proper, it does not follow that it would be obvious to display a ranking in association with a plurality of the first customer's reviews as claimed.

Still further, the Examiner asserts that Epinions.com and eBay members are effectively competing against one another to become more featured reviewers or gain a more stellar reputation, and that it would have been obvious to modify the Epinions.com-eBay combination to perform the steps of displaying a ranking in association with a plurality of a customer's reviews. Appellants respectfully traverse this characterization of eBay. eBay does not appear to state or imply that members should compete with respect to their reputations. Indeed, rather than encouraging competition with respect to reputation, eBay discloses encouraging the eBay

Docket No. : AMAZON.053A
Application No. : 09/715,929
Filing Date : November 17, 2000

Customer No.: 20,995

community "to think that basically 99 percent of the people out there are doing the right thing". (Auction Mania, ¶ 40).

Dependent Claim 5

Because Claim 5 depends from Claim 4, the rejection of Claim 5 is improper for the reasons set forth above for Claim 4. In addition, the rejection of Claim 5 is improper because neither Epinions nor eBay teach or suggest the elements added by Claim 4, namely "wherein the ranking is determined by the number of helpful and unhelpful votes received for one or more of the first customer's reviews."

Dependent Claim 6

Because Claim 6 depends from Claim 4, the rejection of Claim 6 is improper for the reasons set forth above for Claim 4. In addition, the rejection of Claim 6 is improper because the Examiner failed to provide an adequate motivation to modify Epinions as proposed by the Examiner. Even assuming, *arguendo*, Epinions were modified to include the purported "reward" of eBay, the Examiner has failed to explain how rewarding a first customer would more precisely convey feedback regarding past experiences with a particular member of the Epinions.com community, as argued by the Examiner, than the disclosed usefulness rating of Epinions.

Dependent Claim 7

Additionally, the rejection of Claim 7 is improper because neither Epinions nor eBay teach or suggest the elements added by Claim 7, namely "displaying the designation in association with a plurality of reviews authored by the first customer." Appellants note that eBay does not disclose displaying a color coded star in association with a plurality of product reviews or even with respect to a plurality of eBay purchases or sales. Indeed, eBay discloses having to access a Feedback Profile associated with a user by clicking on a number besides the user's User ID. (eBay Forum, page 3). Further, even if eBay were modified to include the color coded star icon of eBay, which indicates that number and types of comments received regarding a

Docket No. : AMAZON.053A
Application No. : 09/715,929
Filing Date : November 17, 2000

Customer No.: 20,995

purchase/sale transaction, the combination would not result in the display of a designation in association with a plurality of reviews authored by the first customer.

In rejecting Claim 7, the Examiner merely states that the "display of a color-coded star [as disclosed by eBay] is indicative of the step of displaying the designation in association with a plurality of reviews authored by the first customer." The Examiner failed to provide a motivation for modifying Epinions as proposed by the Examiner. Further, because eBay does not teach or suggest product reviews, rating product reviews, or providing a customer with designation based on product review ratings, let alone displaying such a designation in association with a plurality of reviews, there is no explicit or implicit suggestion or motivation to combine the eBay with Epinions.

Dependent Claim 8

Additionally, the rejection of Claim 8 is improper because Epinions and eBay completely fail to teach or suggest the elements added by Claim 8, namely "preventing a vote on the providing review from the first customer from being included in the tally of votes received for the product review". The Epinions articles and eBay do not even mention, and do not appear to recognize or be concerned with any problems associated with a customer who would unfairly skew review voting results in the customer's favor.

Further, because Epinions does not even mention putting any limitations on voting, does not describe any mechanism for providing any limitations on voting, and appears unconcerned with putting any limitations on voting, there would be no motivation to modify the disclosure of the Epinions articles as set forth by the Examiner.

Dependent Claim 9

Additionally, the rejection of Claim 9 is improper because neither Epinions nor eBay teach or suggest the elements added by Claim 9, namely that "each of the other customers is prevented from voting more than once in relation to the product review". The Epinions articles and eBay do not even mention, and do not appear to recognize or be concerned with any problems associated with providing product review votes or with skewing product review votes.

Docket No. : AMAZON.053A
Application No. : 09/715,929
Filing Date : November 17, 2000

Customer No.: 20,995

Indeed, the Epinions articles do not even mention, and do not appear to recognize or be concerned with any problems associated with a customer who would unfairly skew voting results, much less a customer who would unfairly skew voting results by voting more than once. Further, because the Epinions articles do not even mention putting any limitations on voting, do not describe any mechanism for providing any limitations on voting, and appear unconcerned with putting any limitations on voting, there would be no motivation to modify the disclosure of the Epinions articles as proposed by the Examiner.

Dependent Claim 11

Additionally, the rejection of Claim 11 is improper because neither Epinions nor eBay teach or suggest the elements added by Claim 11, namely "generating a profile page associated with the first customer, wherein the profile page includes the number of unhelpful votes the first customer has received." While the Examiner admits that the foregoing elements are not disclosed by Epinions, the Examiner relies on eBay to supply the missing elements. However, as discussed above with respect to Claim 3, eBay does not even disclose "helpful votes" or "non-helpful votes", much less "helpful votes" or "non-helpful votes" regarding a product review. Instead, eBay discloses that a buyer or seller receives a score depending on a comment left about the buyer or seller by another eBay user. Thus, even if Epinions was modified to include the teachings of eBay, the result would not provide a profile page that includes the number of unhelpful votes the first customer has received.

Independent Claim 19

With respect to Claim 19, the Examiner asserts that Claim 19 recites limitations already addressed by the rejection of Claim 1 and that therefore the same rejection applies. As similarly discussed above with respect to Claim 1, eBay fails to supply the elements missing from Epinions. Epinions and eBay, separately or in combination, fail to teach or suggest tallying evaluations for a plurality of reviews from at least a first customer to provide a combined tally for the evaluations, or transmitting information related to the evaluations and the combined tally

OCT 17 2006

Docket No. : AMAZON.053A
Application No. : 09/715,929
Filing Date : November 17, 2000

Customer No.: 20,995

for display in association with the product review, as recited by Claim 19. The rejection of Claim 19 is improper because the Examiner has not shown that the addition of the disclosure of eBay to Epinions, would have produced a method that meets all of the claim elements. The Examiner thus has not shown that all of the claim limitations are taught or suggested.

Claim 19 refers to tallying evaluations for a plurality of reviews from at least a first customer to provide a combined tally for the evaluations, and further refers to transmitting information related to the evaluations and the combined tally for display in association with the product review. The Examiner does not point to any disclosure of such functionality in eBay, and does not explain how or why the addition of eBay's tallying of ratings of buyers or sellers with respect to eBay transactions to Epinions would have provided such functionality.

Further, because eBay does not teach or suggest evaluating reviews, let alone tallying evaluations for a plurality of reviews from a first customer, there is no explicit or implicit suggestion or motivation to combine the eBay with Epinions as proposed by the Examiner.

Further, as discussed above with respect to Claim 1, Appellants respectfully submit that eBay is not analogous art. Therefore, the rejection of Claim 19 is improper.

CONCLUSION

For the reasons set forth above, the rejections of Claims 1-11 and 19 are improper and should be reversed.



David N. Weiss
Registration No. 41,371
Attorney of Record
Customer No. 20,995
(310) 551-3450

OCT 17 2006

Docket No. : AMAZON.053A
Application No. : 09/715,929
Filing Date : November 17, 2000

Customer No.: 20,995

VIII. CLAIMS APPENDIX

1. A method of evaluating a product review displayed in connection with a networked commerce site, comprising:
 - providing a product review authored by a first customer over a network to a plurality of other customers;
 - receiving votes over the network from other customers indicating whether the product review was helpful;
 - tallying the votes received for the product review;
 - providing over the network an indication related to the vote tally for the product review in association with the product review;
 - tallying votes received for a plurality of reviews authored by the first customer to provide a total tally, the total tally including votes received for the product review;
 - assigning a designation to the first customer based on the total vote tally for the plurality of reviews authored by the first customer; and
 - displaying the designation in association with the product review.
2. The method as defined in Claim 1, wherein the votes comprise votes indicating that the product review is helpful and votes indicating that the product review is not helpful.
3. The method as defined in Claim 2, wherein the helpful votes are weighted differently than non-helpful vote.
4. The method as defined in Claim 1, displaying a ranking in association with a plurality of the first customer's reviews, wherein the ranking is based at least in part on the vote tally.
5. The method as defined in Claim 4, wherein the ranking is determined by the number of helpful and unhelpful votes received for one or more of the first customer's reviews.
6. The method as defined in Claim 4, further comprising rewarding the first customer at least partly in response to the first customer achieving a first ranking.

Docket No. : AMAZON.053A
Application No. : 09/715,929
Filing Date : November 17, 2000

Customer No.: 20,995

7. The method as defined in Claim 1, further comprising displaying the designation in association with a plurality of reviews authored by the first customer.

8. The method as defined in Claim 1, further comprising preventing a vote on the providing review from the first customer from being included in the tally of votes received for the product review.

9. The method as defined in Claim 1, wherein each of the other customers is prevented from voting more than once in relation to the product review.

10. The method as defined in Claim 1, further comprising generating a profile page associated with the first customer, wherein the profile page includes an indication related to the number of helpful votes the first customer has received for a plurality of reviews authored by the customer.

11. The method as defined in Claim 1, further comprising generating a profile page associated with the first customer, wherein the profile page includes the number of unhelpful votes the first customer has received.

12.-18. (Withdrawn)

19. A method of evaluating a product review displayed in connection with a networked commerce site, comprising:

- transmitting the product review to a plurality of customers;
- receiving from at least a portion of the plurality of customers evaluations indicating whether the product review was useful;
- tallying evaluations for a plurality of reviews from at least a first customer to provide a combined tally for the evaluations; and
- transmitting information related to the evaluations and the combined tally for display in association with the product review.

20.-21. (Withdrawn)

IX. EVIDENCE APPENDIX

None

Docket No. : AMAZON.053A
Application No. : 09/715,929
Filing Date : November 17, 2000

Customer No.: 20,995

X. RELATED PROCEEDINGS APPENDIX

None

3012945
101206